

**§ 723.405**

**7 CFR Ch. VII (1-1-04 Edition)**

**§ 723.405 Dealers exempt from regular records and reports on MQ-79; and season report for dealers.**

(a) Any dealer or buyer who acquires tobacco in the form in which tobacco ordinarily is sold by farmers and resells 5 percent or less of any such tobacco shall not be subject to the requirements of § 723.404 of this part except for the requirements which relate to the reporting of nonauction purchases from producers and the requirements of § 723.404(e) of this part. A dealer or buyer whose resales in the form normally marketed by producers farmers exceed 5 percent of their purchases as a direct result of order buying for another dealer for a service fee may report under paragraph (b) of this section in lieu of § 723.404 of this part (except for requirements which relate to non-auction purchases from producers and requirements of § 723.404(e) of this part.

(b)(1) This paragraph is applicable only to burley and flue-cured tobacco. Each dealer or buyer shall make a report to the Director, not later than February 1 of each year for flue-cured and April 1 for burley tobacco, showing by States where acquired, source and pounds of all tobacco, in the form normally marketed by producers, purchased at auction or nonauction including tobacco received which was not billed to the dealer or buyer. Any acquisition of tobacco in the form normally marketed by producers by the dealer or buyer during the marketing year (October 1 through September 30 for burley tobacco and July 1 through June 30 for flue-cured tobacco) which is not included in the initial report shall be reported in like manner no later than the end of the calendar week following the week in which the tobacco was acquired. The report shall show:

(2) For purchases at auction for each warehouse;

(i) USDA registration number (warehouse code),

(ii) Name and address of warehouse,

(iii) Gross pounds originally billed to the buyer,

(iv) Gross pounds billed to the buyer for which payment was made,

(v) Gross pounds from the company correction account deducted for short lots and short weights and returned lots, and

(vi) Gross pounds from the company correction account added for long lots and long weights.

(3) For purchases at nonauction;

(i) Name and address of seller (dealer or farmer),

(ii) Seller's number (dealer's registration number or farm number, including State and county code), and

(iii) Pounds purchased.

**§ 723.406 Provisions applicable to damaged tobacco or to purchases of tobacco from processors or manufacturers.**

(a) *Damaged tobacco.* Any dealer, warehouse operator, or other person who intends to purchase damaged tobacco shall notify the State FSA office where the warehouse operator or dealer is registered or should be registered. Such report must be made at least 2 business days in advance of the purchase so as to allow for inspection arrangements to be made. The inspection shall be conducted by an FSA representative and no purchase credit shall be allowed the buyer for the quantity determined to be damaged tobacco. Damaged tobacco may be disposed of without incurring a penalty only if the tobacco is destroyed and the destruction is witnessed by an FSA representative or the tobacco is sold directly to a processor or manufacturer and such sale is reported to the same State FSA office. Any tobacco not disposed of in that manner shall be deemed to have been a marketing of excess tobacco and will be subject to a penalty at the full penalty rate for the quantity of tobacco involved.

(b) *Purchase from processor or manufacturer.* Any tobacco purchased by a dealer, warehouse operator, or other person from a processor or manufacturer shall be considered to be tobacco in the form not normally marketed by producers unless the purchaser obtains from the processor or manufacturer a certification stating that such purchased tobacco is in the form normally marketed by producers. The certification by the processor or manufacturer shall be on a form prescribed by the Deputy Administrator certifying to FSA that the tobacco involved in the transfer of ownership is in the form normally marketed by producers. No